

REMARKS

Applicant replies to the Final Office Action dated August 30, 2006, within two months. Thus, Applicant requests an Advisory Action, if necessary. Claims 1, 3, 4, and 6 were pending in the application and the Examiner rejects claims 1, 3, 4, and 6. Support for the amendments to the claims may be found in the originally filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1, 3, 4, and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art disclosed in Applicant's specification in view of Swart, U.S. Patent No. 6,347,306 ("Swart"). Applicant respectfully traverses this rejection.

In the "Background" portion of the specification, Applicant describes existing third-party human resource management companies otherwise known as, "Professional Employer Organizations (PEO). Specifically, the Examiner references a portion of the "Background" that states that after the PEO, "receive[s] gross payroll (and fees) from the worksite employer and, after paying taxes, withholding, and the like, provide[s] the net payroll amount to the worksite employer's employees" (page 2, paragraph 2, emphasis added). The Examiner has equated the "withholding" of the prior art PEO with Applicant's recital in claim 1 that employee funds are distributed to third parties prior to allowing the employee to disburse funds. Applicant respectfully disagrees.

Those of ordinary skill would appreciate that payroll withholdings include taxes, social security, medical insurance, life insurance, investment account contribution, cafeteria plan, parking, and the like. Withholdings are generally calculated from a pre-tax sum of the employee gross pay. In other words, the withholdings are deducted from the gross pay prior to calculating federal and state income taxes. The taxing entities allow for this in regard to employer-supplied benefits. However, a withholding does not include payments made to third parties in regard to a purchase of goods and/or service. Such payments would not be considered an employee benefit, thereby would not be eligible for pre-tax withholding. Applicant clearly discloses within the specification that the employee can access funds from his payroll account to make purchases via a debit or credit card, and further, that payments can be made automatically from the payroll account. See, for example, page 7, paragraph 3 of Applicants specification that states, "the

employee may arrange payment with a vendor of goods and services via a prior pre-direct diversion of funds.” Thus, it is evident that in addition to withholdings that include taxes, health insurance, 401K, and the like, an employee may divert funds to make a payment for goods and services, which would be considered an after tax deduction.

Swart generally discloses a payroll system, wherein payment for salaried employees may be made following completion of a shift. Specifically, the Swart system interacts with a company’s Time and Attendance (TA) system and Human Resources (HR) system to collect shift information and calculate a payment amount. Typical TA systems rely on input from the employee to determine if the employee worked his shift, and determine the duration of the shift. Typical HR systems store employee information such as name, social security number, department code, shift information, pay scale, tax information, vacation days, personal leave, and the like. When a TA system receives a signal indicating that an employee shift has ended, it sends this information to the Swart system. The Swart system then collects payroll information from the HR system to calculate the net pay based on the shift duration. The Swart system then communicates with a bank to issue a request to disperse a check or invoke a direct deposit into the employee’s account.

Swart is limited to a system for automating a task that has traditionally been the responsibility of a payroll administrator. The Swart system is integrated within the existing computing infrastructure of an organization to receive inputs from TA and HR systems and calculate a payroll disbursement. The Swart system further communicates with a bank to initiate a deposit into an employee bank account. If an employee wishes to have the bank pay for goods and services from the employee’s bank account balance, the employee must instruct his bank or credit union to do so. However, the system of Swart is unable to provide this service because the system only serves as a transferring entity that moves funds from the employer to the respective employee’s accounts.

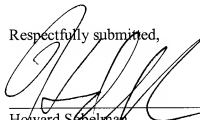
Both the prior art, as described by the Applicant, and Swart disclose variations on the services provided by a PEO. However, Swart is primarily concerned with how funds are dispersed to employees at the end of a work cycle or shift, thereby making funds more readily available to employees. Neither the prior art nor Swart are concerned with the problem of proving traditional PEO services with automatic payment services from a single entity, without requiring funds to be diverted to a bank account. In fact, both of the references require that an

employee have a bank account. As such, neither the prior art, Swart, nor any combination thereof, disclose or suggest at least a personal finance service provider, "configured to electronically disburse an after tax portion of said employee funds to a third party as payment for at least one of a good and service prior to allowing said employee to disburse remaining said employee funds via said access point," as recited by amended independent claim 1.

Applicant asserts that claims 3, 4, and 6, which depend from independent claim 1, are differentiated from the cited reference for at least the same reasons as set forth above, as well as in view of their own respective features.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as his invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicant authorizes and respectfully requests that any fees due be charged to Deposit Account No. 19-2814, including any required extension fees.

Respectfully submitted,


Howard Sobelman
Reg. No. 39,038

Dated: October 24, 2006

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com